

RECEIVED
RECEIVED
JAN 27 1988

WISCONSIN EMPLOYMENT
RELATIONS COMMISSION

WISCONSIN EMPLOYMENT RELATIONS COMMISSION
BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

CITY OF RACINE,
Wastewater Commission

and

LOCAL 2807, AMERICAN FEDERATION
OF STATE, COUNTY AND MUNICIPAL
EMPLOYEES, AFL-CIO

AWARD AND OPINION

Decision No. 24266-A

Case Number Arb.	273 37874 4150
Hearing Date	June 10, 1987
Appearances:	
For the Employer	Mulcahy & Wherry, S.C. Attorneys at Law, by MR. MARK OLSON
For the Union	MR. ROBERT CHYBOWSKI, Staff Representative
Arbitrator	MR. ROBERT J. MUELLER
Date of Award	January 25, 1988

NATURE OF PROCEEDINGS

This proceeding involves a dispute between the Wastewater Commission of the City of Racine and the above Union, involving a bargaining unit of approximately 36 employees at the wastewater treatment plant and including the sewer maintenance crew. The parties began negotiations in late 1986 on a labor agreement

for the years 1987-88 to replace the current agreement which expired at the end of 1986. Negotiations were unsuccessful in attaining a settlement. The Union filed a petition requesting arbitration pursuant to Section 111.70(4)(cm) of the Wisconsin Statutes. An investigation ensued and an impasse was determined to exist. Final offers were thereafter exchanged between the parties. The undersigned was subsequently selected and appointed by the WERC to serve as arbitrator to resolve the dispute. A hearing was held and the parties were given full opportunity to present such evidence, testimony and arguments as they deemed relevant. Post-hearing briefs and reply briefs were exchanged through the arbitrator. Subsequent relevant items of evidence and comments by accompanying letters, were submitted to the arbitrator and exchanged between the parties subsequent to the filing of reply briefs. The arbitrator is charged in this case, with resolving the impasse by selecting either the total final offer of the Union or the total final offer of the City, pursuant to Section 111.70(4)(cm) 6 and 7 of the Municipal Employment Relations Act.

THE FINAL OFFERS

The parties have reached tentative agreement on all issues with the exception of salaries.

City Final Offer

- A. 1987 - Retain 1986 rates at all classifications.

B. 1988 - Increase the following classification rates by 2%:

- WW-8 through WW-1
- Student rates

C. 1988 increases to be effective 1/1/88.

Union Final Offer

Increase all wage rates for all classifications by three percent (3%) effective 1/1/87; and another three and one-half (3½%) percent effective 1/1/88.

POSITIONS OF THE PARTIES AND DISCUSSION

The Comparables

The Union proposed that the sewerage districts to which comparison should be made consists of Milwaukee, West Allis, Wauwatosa, Kenosha, Madison, Janesville, Waukesha and Racine. The Union pointed out that with the exception of Beloit, which they would exclude because of it being much smaller than all others, prior arbitrators have utilized those cities as comparables in prior interest arbitrations. Two cases involved police department employees, one involved public health nurses and one involved firefighters. The Union contends the City is trying to break sharply from the set of comparables that other arbitrators have utilized in the past.

The Employer contended that based on both size and geographic proximity, the communities of Beloit, Janesville, Kenosha and Waukesha, plus other cities falling within the population range of 45,000 to 175,000 of Appleton, Green Bay,

Madison, Oshkosh and Sheboygan should be used as comparables.

The City also presented into evidence as Employer Exhibit No. 44, a decision of Arbitrator Frank P. Zeidler involving the City of Racine Waterworks Commission and Local 63, involving the calendar years 1987-88 and involving identical final offers of both the Employer and the Union, as is involved in this case. In such case the arbitrator found as primary comparables the cities of Janesville, Kenosha, Racine, Waukesha, Wauwatosa and West Allis. As secondary comparables, the arbitrator found Appleton, Green Bay, Madison, Oshkosh and Sheboygan. He concluded that Milwaukee constituted a tertiary district to that of Racine.

The Employer would exclude the Milwaukee Sewerage District as a comparable. It is noted that in the City of Racine Water Department decision issued by Arbitrator Zeidler, he found the cities of Wauwatosa and West Allis as being part of those primary comparables. The evidence indicates that the cities of West Allis and Wauwatosa are within and a part of the Milwaukee Sewerage District. It seems to the undersigned that it would be inappropriate to exclude the Milwaukee Sewerage District which includes the cities of West Allis and Wauwatosa as one of the primary comparables simply on the basis of size, where for comparative purposes with other type units of employees, a part of the district consisting of West Allis and Wauwatosa

have been utilized as primary comparables. In the Waterworks case, apparently the cities of Wauwatosa and West Allis have their own independent water system independent of the Milwaukee system. It seems to the arbitrator that the cities of Kenosha, Racine, Waukesha and the Milwaukee Sewerage District, which includes the cities of West Allis and Wauwatosa, constitutes the primary set of comparables in this case. All of said districts could be regarded to a large extent, as sharing the same labor and bread basket market. Further, they are all in the contiguous southeast area of the state. It seems to the undersigned that the other sewerage districts that should be afforded secondary consideration consists of Beloit, Janesville, Madison, Appleton, Green Bay, Oshkosh and Sheboygan. Such secondary districts, in my judgment, should be given considerably less consideration and weight in comparison to the primary comparables.

Arguments of the Parties and Discussion

Stated in the simplest of terms, the Union has focused its evidence and argument on the level of settlements and external comparables to other sewerage department employees.

The City's major and principal focus of evidence and arguments is directed at the premise that controlling consideration should be given to the fiscal and economic condition and problems of the Racine Sewerage District and the internal pattern of settlements and internal comparisons to other groups

of employees of the City.

Simply stated, the primary thrust of the Employer's argument is that controlling consideration should be given to internal comparative factors as opposed to the primary thrust of the Union's argument that controlling consideration should be afforded the level of settlements and pay provided to comparable employees in comparable external units.

The Employer summarized its arguments and view of the evidence in a very concise manner at pages 44-45 of its brief as follows:

1. The Commission offer is more reasonable since it recognizes the need for fiscal restraint in view of the certain loss of a major source of funding for necessary capital improvements, the Wisconsin Fund; the possible loss of a major industrial user, the S.C. Johnson Company; a need for a major capital improvements in order to meet state and federal mandates and avoid a sewer moratorium which would assuredly stifle all economic growth in the City of Racine and environs; inability of the Utility to control its own destiny relative to rate setting; the recent double barreled increases in rates mandated by the PSC; and, the significantly above-average wage and benefits now enjoyed by Utility employees.
2. The internal pattern of settlements establishes that the vast majority of City employees have already sustained at least one wage freeze since 1984 and the City has an identical offer on the table for all unresolved contracts for the 1987-88 contract year.
3. Adoption of the City offer will not result in a loss of rank order in the wage rates for Commission employees.
4. Based on declining economic vitality, Racine should no longer be required to maintain substantially above-average wage and benefit costs.

5. The present base wage rates and wage rates, including licensure pay, exceeds the average of comparables by as much as \$1.92 an hour or 17.6% on the high side and \$.72 an hour or 6.1% on the low side.
6. When the wages and major benefit costs are combined, Racine Wastewater employees exceed the average among the comparables as follows:
 - Wastewater Operator - 11.62% to 16.4%
 - Laborer/Utility Worker - 13.5% to 14.1%
 - Mechanic I - 12.4% to 14.4%
 - Mechanic II - 8.2% to 10.2%
7. Increases in hourly rates and hourly rates combined with insurance have exceeded increases in the CPI for a period from 1980 to 1987. Further the negative rate of inflation in the Milwaukee area provides the appropriate window for a base wage freeze, at no significant detriment to the employees.
8. A substantial diminishment in wage and benefit packages for a substantial number of private sector employees and a diminishment of employment opportunity in the private sector generally in the Racine area, militates strongly in favor of adoption of a one-year wage freeze followed by a second year wage offer as contained in the Employer's final offer.

The Union's arguments could be summarized as follows.

The Union's wage offer fits well within the range of wage settlements or Employer offers to settle of the comparable districts. The City's offer would erode the relative ranking among the comparable cities. The Union's final offer is also more reasonable as measured by the Consumer Price Index.

The City's argument that this bargaining unit should accept a wage freeze because all others have accepted a freeze at

some point in time, is flawed because historically there has been a lack of uniformity among the City's various bargaining units, some units enjoyed COLA clauses over the years whereas the wastewater employees did not, Local 67 accepted a wage freeze in 1984 in exchange for a side letter of agreement which guaranteed no layoffs of employees for a period of time and in some years other bargaining units have received greater increases than have employees of the Sewerage Department.

Finally, the Union argued that the City has a strong ability to pay for the Union's final offer. The exhibits and audit reports reveal that the wastewater utility enjoys robust financial health and that their profit on operations increased 78% in 1986 over the 1985 comparative year.

Union Exhibit No. 1 listed what the Union viewed as inter-City comparables showing the rates for various classifications as follows:

INTERCITY COMPARABLES

MILWAUKEE SEWERAGE DISTRICT (Includes Milwaukee, West Allis, Wauwatosa) 3.9% across the board increase (5/1/86)

5/1/86

Maintenance Mechanic	12.26-12.83
Monitoring Crew Chief	12.90-13.37
Monitoring Crew Worker	12.14-12.33
Operator I - Shift	11.28-11.48
Operator II - Shift	11.60-11.81
Operator III - Shift	11.86-12.12
Operator IV - Shift	12.73-12.95

WEST ALLIS - 3.5% 1/1/87; 3% 1988

Sewer Maintainer	10.51-11.85
------------------------	-------------

KENOSHA (1/1/87)

Assistant Plant Operator	11.21-11.78
Sewage Plant Operator	11.42-11.98

MADISON (1/1/86)

Utility Worker	9.18-10.34
Relief Operator	10.05-11.16
Certified Works Operator	10.34-11.45
Mechanic II	10.84-12.20

JANESVILLE (1987)

Operator I	11.09-13.49
Operator II	10.55-12.85
Operator III	10.06-12.22
Operator IV	9.59-11.67
Operator V	8.70-10.56

RACINE (1986)

Mechanic I	12.88
Sampling Crew	12.47
Field Operations Crew	12.27
Rotating Shift Operator	12.05
Utility Worker	11.77

WAUKESHA (7/1/86)

Assistant Operator	10.87-11.23
Relief Operator	10.87-11.23
Operator	11.23-11.54
Maintenance	11.57-11.89

(Union Exhibit No. 1)

The Union also presented into evidence Union Exhibit No. 2 listing the wage increases that were available to it for the intercity comparables as follows.

**1987 WAGE INCREASES
INTERCITY COMPARABLES**

MILWAUKEE SEWERAGE DISTRICT (Includes Milwaukee, Wauwatosa, West Allis)
Union rejected tentative agreement which included wage increases of 3% 5/1/87 and 3% 5/1/88.

West Allis

..... 3.5% - 1/1/87
..... 3.0% - 1/1/88

KENOSHA

..... 4.0% - 1/1/87
..... 4.0% - 1/1/88

MADISON METROPOLITAN SEWERAGE DISTRICT

..... 4.0% - 4/1/87
..... 3.0% - 1/1/88

JANESVILLE

..... 1.7% - 1/1/87

WAUKESHA

..... 4.0% - 1/1/87

(Union Exhibit No. 2)

The Union points out that the average wage increase for 1987 for the listed comparables is 3.37%. The Union's offer of 3% is therefore less than the average.

The 1988 wage increase average, including the Employer's

offer for the Milwaukee District is 3.25%. The Union's proposal of 3.5% is not unreasonable compared to the 3.25% average. The City's offer of 0% for 1987 and 2% for 1988 is clearly unreasonable in comparison.

The City argued that wastewater employees would still enjoy demonstrably higher than average wages and benefits under the Employer's offer. Employer's Exhibit No. 20 sets forth rates for what it viewed as comparable wastewater facilities of the wastewater plant operator classification, which makes up approximately 31% of the bargaining unit, as follows:

WAGE SCHEDULE FOR STATION ENGINEERS

		1986		1987		1988	
		Min.	Max.	Min.	Max.	Min.	Max.
Appleton		\$9.89	\$10.07	\$10.19	\$10.37	Not Settled	
Beloit	1/1	8.55	9.40	8.89	9.78	9.16	10.08
	7/1	8.72	9.59	8.98	9.88		
Green Bay *		8.59	10.92	8.59	10.92	Not Settled	
Janesville	V	8.50	10.31	8.50	10.45	Not Settled	
	IV	9.38	11.40	9.38	11.55		
	III	9.84	11.94	9.84	12.10		
	II	10.31	12.55	10.31	12.73		
	I	10.84	13.18	10.84	13.35		
Kenosha		10.98	11.52	11.42	11.98	11.88	12.46
Madison	I	10.34	11.45	10.76	11.90	11.08	12.26
	II	10.57	11.75	10.99	12.22	11.33	12.58
Oshkosh	1/1	9.61	10.13	10.05	10.56	10.35	10.88
	7/1	9.71	10.24				
Sheboygan	I	9.60	10.05	9.97	10.44	Not Settled	
	II	9.85	10.36	10.23	10.76		
Wausau	1/1	10.82	11.12	11.68	12.00	Not Settled	
	7/1	11.23	11.54				
Racine	I	11.89	12.24	City: 11.89	12.24	12.13	12.48
	II	12.14	12.30	12.14	12.30	12.38	12.55
	III	12.18	12.34	12.18	12.34	12.42	12.59
	IV	12.23	12.39	12.23	12.39	12.47	12.64
				Un:			
			I	12.25	12.61	12.68	13.05
			II	12.50	12.67	12.94	13.11
			III	12.55	12.71	12.99	13.15
			IV	12.60	12.76	13.04	13.21
With Premium Pay for Station Eng. License:							
				City:	12.49		12.73
					12.55		12.80
					12.59		12.84
					12.64		12.89
				Un:			
				I	12.66		13.30
				II	12.92		13.36
				III	12.96		13.40
				IV	13.01		13.46

* Rate in effect from 4/1/86 through 12/31/87, changing fiscal year effective 1/1/88.

(Employer's Exhibit No. 20)

Using the above data from Employer's Exhibit No. 20 and Exhibits 21 through 23 which were similar in form and covered other classifications, the Employer computed the following comparison and analysis at pages 32-33 of its brief as follows:

Racine Wage Rates
Relationship to Average Rates*

(Actual Rates)

	<u>1986</u>		<u>1987 Employer</u>		<u>1987 Union</u>	
	<u>Low***</u>	<u>High</u>	<u>Compares to Ave.</u> <u>Low</u>	<u>High</u>	<u>Compares to Ave.</u> <u>Low</u>	<u>High</u>
<u>Wastewater Op.</u>						
Average of Comparables	\$10.63	\$11.02	\$10.94	\$11.34	\$10.94	\$11.34
Racine w/DNR Lic.	\$12.24	\$12.39	\$12.24	\$12.39	\$12.61	\$12.76
Racine w/Stat. Eng. Lic.	--	--	\$12.49	\$12.64	\$12.86	\$13.01
<u>Laborer/Utility Worker</u>						
Average of Comparables	\$10.14	\$10.20	\$10.51	\$10.57	\$10.51	\$10.57
Racine	\$11.77	\$11.77	\$11.77	\$11.77	\$12.12	\$12.12
<u>Mechanic I **</u>						
Average of Comparables	--	\$11.18	--	\$11.59	--	\$11.59
Racine Base	--	\$12.88	--	\$12.88	--	\$13.27
w/Stat. Eng. Lic.	--	--	--	\$13.13	--	\$13.52
<u>Mechanic II</u>						
Average of Comparables	--	\$11.43	--	\$11.75	--	\$11.75
Racine Base	--	\$12.47	--	\$12.47	--	\$12.84
w/Stat. Eng. Lic.	--	--	--	\$12.72	--	\$13.09

- * Highest rate for year used if split increase.
- ** Lead worker rate in Green Bay not utilized.
- *** The "Low", "High" designator is utilized where more than one classification of a job exists within the comparables.

(ER 20-23)

Racine Wage Rates
Relationship to Average Rates*

Cents/Hour and Percentage

RACINE EXCEEDS AVERAGE

	<u>1986</u>		<u>1987 Employer</u>		<u>1987 Union</u>	
	Low	High	Low	High	Low	High
<u>Wastewater Op.</u>						
w/DNR Lic.	\$1.61 12.1%	\$1.37 12.4%	\$1.30 11.9%	\$1.05 9.3%	\$1.67 15.3%	\$1.42 12.5%
w/Stat. Eng. Lic.	-- --	-- --	\$1.55 14.2%	\$1.30 11.5%	\$1.92 17.6%	\$1.67 14.7%
<u>Laborer/Utility Worker</u>	\$1.63 16.1%	\$1.57 15.4%	\$1.26 12.0%	\$1.20 11.4%	\$1.61 15.3%	\$1.55 14.7%
<u>Mechanic I **</u>						
Base Rate	-- --	\$1.70 15.2%	-- --	\$1.29 11.1%	-- --	\$1.55 14.7%
w/Stat. Eng. Lic.	-- --	-- --	-- --	\$1.54 13.3%	-- --	\$1.93 16.7%
<u>Mechanic II</u>						
Base Rate	-- --	\$1.04 9.1%	-- --	\$.72 6.1%	-- --	\$1.09 9.3%
w/Stat. Eng. Lic.	-- --	-- --	-- --	\$.97 8.3%	-- --	\$1.34 11.4%

(ER 20-23)

- * Highest rate for year used if split increase.
- ** Lead worker rate in Green Bay not utilized.

The Employer further argued that ten of eleven wastewater operators and four of nine mechanics in Racine will receive the newly negotiated stationary engineer premium pay in 1987. Such provision is a part of the stipulations reached by the parties and provides for a 20¢ per hour premium for employees with the license in class 3 positions and 25¢ per hour premium for employees in class 2 positions. The Employer argues that such premium type pay is not afforded employees in other comparable districts.

In their reply briefs, the Union focused the majority of its argument on the contention that the Employer was in good financial condition and clearly had the ability to pay the Union's proposed wage offer. They argued the Employer exaggerates the importance of changes in manufacturing employment and that the loss in manufacturing jobs in some other comparables has been greater than that of Racine in the same interval. In fact, the evidence presented by the Employer shows that all of southeastern Wisconsin is in a very comparable economic condition with similar unemployment levels, similar losses of manufacturing jobs, and similar economic problems. The Union further argues that the expiration of the Wisconsin Fund as a source of funding for wastewater projects has not been shown by the Employer to have affected Racine any differently than its affect is upon other wastewater

districts. There is nothing unique about Racine's situation.

In its reply brief, the City argued that the Racine wastewater employees are among the highest paid, even within the Union comparable grouping. They contend the data contained in Union Exhibit No. 1 fails to take into consideration the premium paid certified operators and the stationary engineer premium pay. The City's analysis of Union Exhibit No. 1 is set forth at pages 3-4 of its brief and is as follows:

Maintenance Mechanic

<u>Racine</u>	\$12.88
Milwaukee	12.83
Madison	12.20
Waukesha	11.89

Wastewater Operator

Janesville - Op I	\$13.49
Milwaukee - Op IV	12.95
Janesville - Op II	12.85
<u>Racine</u> - Op IV w/Stat. Eng.	12.64
<u>Racine</u> - Op IV	12.39
<u>Racine</u> - Op III	12.34
<u>Racine</u> - Op II	12.30
<u>Racine</u> - Op I	12.24
Janesville - Op III	12.22
Milwaukee - Op III	12.12
Kenosha	11.98
Milwaukee - Op II	11.81
Janesville - Op IV	11.67
Waukesha - Op	11.54
Milwaukee - Op I	11.48
Madison - Cert. Op	11.45
Waukesha - Relief Op	11.23
Janesville - Op V	10.56

(Source: UN 1)

The City points out that where operator classifications are shown to be with higher pay such as in Janesville and Milwaukee, such districts also have lower classifications where the pay is substantially less than the rates paid at Racine. Finally, the City argues that Racine employees will not be reduced in their respective rank order amongst all comparables in the event the Employer's final offer is adopted.

The foregoing recitation of portions of the record evidence clearly indicates that on the basis of comparability of percentage increases in other sewerage districts, the Union's final offer is more appropriate and supported by such consideration. An analysis of the comparative wage rates of the Racine wastewater employees in comparison with other comparables, including those advocated by the Union, reveal that the Racine employees are at or near the top in most categories. The evidence further reveals that Racine wastewater employees would remain at or near the top of the comparables under either the Union or City final offer. One cannot then say as a finding of fact based on comparability criteria, that under the Employer's final offer, Racine wastewater employees would be paid a rate that is lower to the extent it could be regarded as not comparable to the rates paid employees in comparable classifications at other comparable districts.

Both parties argued that the current rate of inflation

as measured by the Consumer Price Index supports their respective final offers. The Union referred to the May 1987 CPI report for Urban wage earners and clerical workers wherein the CPI increased 4.3% for small metro areas and 3.7% on the national index. The Union calculated the annual rate of inflation as running at 5.5%. They suggest that their final offer of 3% for 1987 and 3.5% for 1988 is fully justified on the basis of the CPI factor.

The City calculated the percentage increase of the CPI from 1980 to 1987 and compared it to the percentage increase in total compensation for the same period and set forth the following comparative data:

	<u>City</u>	<u>Union</u>	<u>CPI</u>
Utility Worker	41.9%	44.5%	36.3
Wastewater Op.	43.3%	46.1%	36.3
Sewer Mtc. Wkr.	44.0%	46.7%	36.3
Mechanic I	40.6%	43.4%	36.3

It seems to the arbitrator that an historical evaluation of the total rate of inflation over a period of time as compared to the total compensation increase in percentages over the corresponding period, is interesting, but is much less valid and relevant to the collective bargaining process in a particular year. The normal and customary effect of inflation and the ones considered by parties during the process of negotiations generally concerns what the increase in the CPI has been during the preceding one year period. The parties then seek to consider such increase in inflation to adjust

and either increase or decrease their general level of wage and benefit increases so as to recognize the need for some make-up for such cost of living increases.

The arbitrator is of the judgment that the data referenced by the Union is therefore more relevant and applicable to this case as opposed to the historical data advanced by the Employer. From an evaluation of the cost of living factor, it is therefore clear that such factor clearly favors the Union's final offer as the most appropriate.

The Employer argued that the recently revised impasse procedures under Section 111.70(4)(cm) require separate and greater consideration of the comparison with wages, hours and conditions of employment of municipal employees with employees in private employment in the same community and comparable communities. They contend the evidence reveals Racine has suffered an enormous loss of manufacturing employment over the recent five to six year period which reduces it from second place to fifth place amongst the comparable cities.

They set forth the loss of employees in the private sector in the Racine area and the status of wage increases or wage reductions at major Racine employers as follows:

Racine Steel - 82% loss of hourly employees, 1981 - 1987

JI Case - 69% loss of hourly employees, 1981 - 1987.

Twin Disc - 41% loss of hourly employees, 1981 - 1987.

Jacobsen Mfg. - 56% loss of hourly employees, 1981 - 1987.

(ER 36)

Furthermore, none of these major Racine employers have been able to extend a 1986 or 1987 wage increase, and a number have required pay cuts as follows:

Racine Steel - No wage increase since December, 1985.
- \$1.36 reduction in base wages.
- Other benefit givebacks equivalent to \$1.12 per hour.

JI Case - 1987 agreement - no wage increase over 39 months.
- COLA diversion to pay for benefits costs.

Twin Disc - 5% pay cuts for hourly employees.

Jacobsen Mfg. - No wage increase during term of 1986-89 agreement.

General Signal Corporation, another employer with approximately 130 manufacturing jobs, closed its Racine facility in mid 1986. Because of budgetary considerations, the Racine Unified School District is also proposing a wage freeze to its largest bargaining unit, the Racine Education Association.

Because of the mandate from the DNR requiring extensive capital improvements for the wastewater treatment in Racine, the Employer is faced with the prospect of expending approximately \$13.1 million as necessary parts of a capital improvement plan to meet the requirements of the DNR within the very near future. The consequences of not timely completing and

meeting such requirements are severe and would severely injure the industrial and residential expansion in the City of Racine.

Further problems are faced by the Employer because of the fact that the Wisconsin Fund, which was the primary source for funding for capital improvements, will no longer be available to the Employer. The Employer will therefore be required to generate approximately \$8 million internally and because the District by virtue of PSC rulings, has substantially increased its user fees in each of the two prior years, a further substantial increase is anticipated to meet the need to raise the approximate \$8 million for the capital improvement. The present danger faced by the District by implementing a third substantial increase to users could result in the loss of its major industrial user, namely S. C. Johnson Company. Said customer's account was approximately 10% of the employer's revenue. A loss of such customer would severely affect the facility's wellbeing.

The City set forth its argument and related its view of the diminished economic ability of the Employer to meet the Union's final offer and its relationship to the City's contention that this Union should accept a wage freeze so as to share equally all other employees in that respect in their brief as follows:

"It is useful to examine the diminished economic viability and vitality of the Racine area, which has resulted in final offer proposals for a one year wage freeze in 1987 for those City of Racine bargaining units who have not previously sustained such a freeze: Namely, Local 2239, Police and City Hall clericals and Crossing Guards; Local 1199 Nurses; as well as Local 2807 (Wastewater) and Local 63 (Water Department) employees. (ER9) For reasons articulated, supra, by Arbitrator Vernon, the Commission submits that the internal city pattern of wage freezes, which was accomplished at a time during which no such collective bargaining was occurring with regard to the employees of Local 2807, must be viewed as a significant factor in support of the final offer of the Commission in this dispute. As demonstrated by Employer exhibit 9, the city is seeking such freezes, for 1987, from all collective bargaining units which did not, in 1984, agree to sustain such a salary freeze.

"The City of Racine serves as the economic center for Racine County. The City itself suffered a loss of population between 1970 and 1980 of 9.92% and 4.96% between 1980 and 1985 and for a total population loss of nearly 15% (ER 10, 11). This loss of population has combined with an erratic and diminishing growth pattern in the City's equalized value between 1980 and 1985 (ER 15). These circumstances culminated in an absolute decline in equalized value in the City for taxing purposes in 1986.

Change in Equalized Value

1981	3.3%	
1982	4.3%	
1983	.7%	
1984	1.9%	
1986	- .9%	(ER 15)

Clearly the economic malaise of the City is reflected by this continuing loss of the City's tax base. The combined effects of increased operational costs and loss of taxable property, as well as the state and federal revenue shortfall cited earlier, culminated in a tax levy increase for City of Racine residents of 9.7% in 1986 (ER 14).

"As noted in the testimony of both Thomas White, General Manager and that of Thomas Bunker, Assistant Manager of the Utility, the Racine area is heavily dependent on industrial employment. The unemployment in the Racine area peaked in the 1982-84 recession (ER 16). Since then, the overall unemployment rate has stabilized, but at a rate substantially above the State average. During the period from December, 1979 through December, 1986 manufacturing employment, traditionally a high wage sector, has declined 27.4% (ER 17). At the same time manufacturing wages have only increased 25.5% (ER 18). This contrasts strongly with the wage increases in the various Utility positions which range between 35.0% and 40.0% between 1979 and 1986 (ER 4-6).

"As a result of the objectively established factors cited herein, the City of Racine has negotiated wage freezes, as proposed by the Commission in the subject case, with the various other City bargaining units as follows:

Non-organized: 1984 and 1987
Local 2239, City Hall and Police Department:
 3 months 1983 [105 employees]
Police: 1984 [170 employees]
Police staff: 1984 [34 employees]
Fire: 1984 [169 employees]
Fire staff: 1984 and 1987 [6 employees]
Local 67: 1984 [164 employees]

(ER9; June 10, 1987 Testimony of City Personnel Director James Kozina)

"Clearly, almost 700 employees of the City of Racine, including nonorganized employees, have accepted wage freezes on at least one occasion, in recognition of the dire financial straits which have faced citizens in the Racine area during the past five years. The Commission submits to the Arbitrator that the circumstances which gave rise to the recognized need for such wage freezes in 1984 (and again in 1987, for non-represented employee and Fire Staff) militates in favor of a similar concession by the employees of Local 2807 in the subject case. There can be no doubt that a majority of the City employees have exhibited a willingness, painful though it be, to accept the need for fiscal restraint and cost control, which the Commission submits, in the interests of equity, should be shared by the employees of Local 2807.

"Presently a wage freeze for 1987, followed by a 2% increase in 1988, has been the final City offer to the balance of the City bargaining units, all of whom are now negotiating two-year agreements: These units include:

- Local 2239 - City Hall/Police - 105 employees.
- Local 1199 - Nurses - 9 employees.
- Local 2239 - Crossing Guards - 32 employees.
- Local 63 - Waterworks - 35-40 employees.

In its reply brief, the Union contends the audit reports show that the Utility is very strong financially. They contend the Employer's recitation of problems facing them constitute no more than a collection of possible changes facing the Utility. With respect to new capital improvements that are required by DNR regulations, all other sewerage treatment plants are subject to the same type of regulations and face similar problems. They contend the truth of the matter is that large capital improvements are typically financed through bonding and not wages of employees. Additionally, the Racine Sewerage District is expanding and that is a positive sign.

The Employer's referral to the expiration of the Wisconsin Fund as a source for funding wastewater projects does not make such fact unique to Racine. All other utilities and districts are similarly affected by such source of funding.

In reference to the Employer's concern about the possible loss of the Johnson Wax Company as a customer, the Union contends it is understandable that a large employer such as Johnson Wax would continually be involved in considering alternative

options for all of its various operations. Additionally, the Employer has not shown that its treatment of wastewater from Johnson Wax is not done at a discount below actual cost and therefore the loss of a large customer such as Johnson Wax could serve to improve the utility's financial wellbeing.

The Union addressed the Employer's contention that this Union should accept a wage freeze so as to share with other unions the recognition of Racine's dire economic situation at pages 8-10 of its brief as follows:

"Consider first Employer Exhibit 9. This exhibit shows plainly that over the years there was a conspicuous lack of uniformity among the City's various bargaining units. Some units enjoyed COLA clauses, others like the wastewater employees did not. Some units received percentage increases; others, in the same year, received across-the-board increases.

"The past settlements for Local 67 are significant. Local 67, another AFSCME unit represented by Wisconsin Council 40, is composed of approximately 164 blue collar employees (for the list of departments and the classifications see Union Exhibit 9). Now the City is apt to point out that Local 67 voluntarily agreed to a wage freeze in 1984. This is true, but there was a very significant quid pro quo: In exchange for a wage freeze for one year, Local 67 won a Side Letter of Agreement in which the City agreed that from 7/16/84 through 12/31/85 there would be no further lay off of Local 67 employees and no additional subcontracting of jobs performed by Local 67 bargaining unit members. These job security measures, although temporary, were nonetheless very important at the time because Local 67 was then suffering with the layoff of some of its members and the subcontracting of some of the work it had historically performed. (Union Ex. 9, last page)

"The City is not presently offering the Wastewater

Utility employees any form of quid pro quo for the wage freeze it presently seeks in arbitration.

"Let us look now to the wage increases received by Local 67's members compared to the Wastewater Utility employees. In 1984 Local 67 did agree to a wage freeze while Local 2807 at the Wastewater Utility received an increase of 3.5%; but in the previous year, 1983, Local 67 received a 10.0% pay increase while Local 2807/Wastewater received only 3.5% (Employer Ex. 9). Thus in 1983 Local 2807 slipped behind Local 67 by 6.5%, an amount not made up in 1984 even with the Local 67 wage freeze that year.

"In the present, calendar year 1987, Local 67's bargaining unit received a 2% pay increase and a \$3.00 per hour increase for long seasonal employees. The \$3.00 per hour increase for long seasonal employees in Local 67's bargaining unit amounted to a percentage increase of over 50% (+58% for 3rd year seasonal laborers and 55% for 3rd year seasonal truck drivers).

"With respect to the 30 or so long seasonal employees in Local 67's bargaining unit, we expect the City to now say that they never paid the 1987 increases because they never called the Local 67 long seasonal employees back to work this year. Instead the City contracted with a temporary help agency to supply its 'former' long seasonal employees. As was brought out at the hearing, Local 67 is presently challenging this subcontracting effort with grievances and a prohibited practice complaint. The point, however, is that the 1987 voluntary agreement with Local 67 provided for a 2% pay increase for regular full-time employees and a \$3.00 per hour increase for the long seasonal employees (Union Exhibit 10)--far different from the wage freeze the City now tries to win through arbitration for the wastewater utility employees.

"Employer Exhibit 9 shows that the only City of Racine employees who are 'settled' for 1987 with a wage/salary freeze are the 'Non-organized' and the six Fire Department staff employees. Neither of these groups can be counted because neither has access to interest arbitration to improve or protect their wages, hours and conditions of employment.

"As for the rest, those without COLA clauses are off to arbitration for 1987 and 1988, except for the Crossing Guards who have a voluntary settlement for a 3% pay increase in each year. (We acknowledge that the crossing guards are part-time employees and therefore not directly comparable to the other units of Racine employees.)"

As stated earlier herein, the Employer submitted the arbitration award of Mr. Zeidler involving the Water Department as part of the record. The award was issued October 3, 1987. By letter dated November 19, the Union related its view of the relevance of the Zeidler award to this case. They contend the wastewater case is separate and distinct in many ways. The Union said,

"One significant difference is that Mr. Zeidler actually credited the City with providing a \$.36 per hour increase (3%) for Water Plant Operators in 1987, while the stated Final Offer for the City included a wage freeze for 1987. Please see Table III on page 5 of the Water Department Award. Here it is shown that Mr. Zeidler relied on evidence that showed an actual increase in pay rate from \$12.36 to \$12.72 for the Water Plant Operators from 1986 to 1987, pursuant to the City's Final Offer, which is supposed to be for a wage freeze in 1987. In fact, the Water Plant Operators did receive an additional \$.36 per hour (3%) toward the end of their prior agreement as a result of mid-term negotiations which were separate from the negotiations and arbitration proceedings which resulted in the Award issued by Mr. Zeidler. No employees in the Wastewater bargaining unit received extra mid-term pay increase toward the end of their prior Agreement.

"On pages 12 and 13 of his Award, Mr. Zeidler cited the then apparent Racine Unified School District bargaining posture which had been a demand for a wage freeze for teachers. In that case as in the present one the City has argued that this

indicates 'continuing economic difficulties in Racine.' In the present case the City has introduced Employer Exhibits 32 and 33; these same exhibits were part of the record in the case before Mr. Zeidler. But only five days after Mr. Zeidler's decision, the Racine Unified teachers reached agreement for a 5.4% pay increase. (See the attached copies of newspaper clippings marked Union Exhibit 'A'.) This is far greater than the 3% Local 2807 seeks for 1987, and it will be paid to a far greater number of Racine area public employees. Unfortunately for the Water Department employees, this information was not part of the record Mr. Zeidler had to consider."

Employer's Exhibit No. 9 set forth the various wage increases involving the various groups or units of employees of the City of Racine for the years 1981 through 1988. Said exhibit is as follows:

ER. EH.

City of Racine Employees
Wage Increases

<u>Group</u>	<u>1981</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>	<u>1985</u>	<u>1986</u>	<u>1987</u>	<u>1988</u>
Non-organized	10.0%	.58¢/hr.	3.5%	Wage freeze	4.0%	4.0%	0	Not Settled
Loc. 2239/City Hall	10.0%	10.0%	1/1 Wage freeze 4/1 3.5% ave.	3.40% ave.	4.0%	4.0%	City: 0% Un: 2% + 12¢/hr.	2% 4%
Loc. 2239/Police Dept.	10.0%	10.0%	1/1 Wage freeze 4/1 3.5% ave.	3.40% ave.	4.0%	4.0%	City: 0% Un: 2% + 12¢/hr.	2% 4%
Loc. 2807/Wastewater	10.0%	10.0%	3.5%	3.5%	4.0%	4.0%	City: 0% Un: 3%	2% 3.5%
Local 63/Waterworks	10.0%	10.0%	3.5%	3.5%	4.0%	4.0%	City: 0% Un: 3%	2% 3.5%
Local 1199/Nurses	Non-rep.	Non-rep.	3.5%	3.5%	4.0%	4.0%	City: 0% Un: 4%	2% 4%
Local 2239/Crossing Guards	10.0%	10.0%	3.9%	3.83%	4.0%	4.0%	Not Settled	Not Settled
Police	1/1 COLA only 7/1 2% + COLA	COLA only	COLA only	Wage & COLA Freeze	1.0% + COLA	1.5% + COLA fold-in from 1985, no COLA remainder of 86-87 agree.	1.0%	Not Settled
Police Staff	1/1 COLA only 7/1 2% + COLA	COLA only	COLA only	Wage & COLA Freeze	1.0% + COLA	1.5% + COLA	1.0% + COLA	Not Settled
Fire	1/1 COLA only 7/1 2% + COLA	COLA only	COLA only	Wage & COLA Freeze	COLA only	1.5% + COLA fold-in from 1985, no COLA remainder of 86-87 agree.	1.0%	Not Settled
Fire Staff	10.0%	10.0%	3.5%	Wage Freeze	1/1 4.0% 7/1 2.0%	4.0%	0%	Not Settled
Local 67	10.0%	10.0%	10.0%	Wage Freeze	3.0%	2.0%	2.0%	Not Settled

The quotation from the Union's letter of November 19 above, refers to the fact that the water plant operator employees covered by the Zeidler award actually received a 3% or 36¢ per hour increase as a result of mid-term negotiations in 1986. It does not appear that Employer's Exhibit No. 9 reflects such increase. I am unable to resolve such conflict on the basis of the record evidence.

Other aspects are verifiable. In the Zeidler case, the arbitrator apparently assumed and relied upon the anticipation that the employees of the Racine School District presumably would incur a wage freeze. Developments that occurred shortly after the issuance of such award revealed that the Racine Unified School District teachers factually settled for a 5.4% pay increase.

Because the crossing guards are part-time employees, the arbitrator is of the judgment that their settlement is not worthy of significant consideration. The evidence reveals, however, that they settled for a 3% increase in each year of 1987-88. As of this writing, the nurses apparently are still unresolved.

It would therefore appear that there is no consistency with respect to the Employer's contention that those who had not accepted a wage freeze in a prior year, should accept one in 1987 for equality of treatment purposes. It appears

that those who did accept wage freezes did so in 1984 and that they were signatories to two-year labor agreements running from 1984 through 1986. Those who were not involved in a wage freeze in 1984 did not do so because they were parties to two-year contracts which ran from 1983 through 1985. Employer's Exhibit 9 reveals that those local groups of employees all settled for a 4% increase in 1985. The arbitrator has a significant question in his mind as to why the claimed equality of treatment which the Employer now argues, was not invoked in 1985 rather than at this late year in 1987. The record evidence indicates that the 1983-84 years involved the more severe economic downturn that would have been used to justify the wage freeze in 1984. The record evidence further shows that subsequent to 1984 there appears to be a slight upturn in the economic conditions generally that would serve to lessen the urgency and necessity for the parties settling on a basis that would recognize such severe economic downturn at this late date.

Turning to the status of wage settlements involving private sector employers in the Racine area, the Employer has identified a number of private employers wherein wage freezes or reductions have been negotiated and the Employer has argued that such facts support the Employer's offer for a wage freeze in this unit.

An evaluation of Employer's Exhibits No. 27A and B and 28A and B, involve J. I. Case Company and reveals that along

with a freeze on base wages, quarterly cost of living increases were continued and one new holiday was granted for Martin Luther King, Jr. and there was a continued employment guarantee of those employees who were currently employed as of a particular date, which guarantee was to continue for a period of 39 months.

Employer's Exhibit No. 31 referred to the settlement of a labor agreement between Jacobson Manufacturing and the Union, which involved a no-wage increase. Such exhibit, however, reveals that pension and medical insurance benefits were increased and the agreement also served to retain quarterly cost of living increases.

In the considered judgment of the arbitrator, the Employer's argument that other settlements with other groups of City of Racine employees and the settlements involving private sector employers, justifies their proposal of a wage freeze, is unsupported by the record evidence.

In weighing and balancing all statutory factors to the total record evidence and arguments of the parties herein, the arbitrator comes to the finding and judgment that the greater number of relevant factors supports the Union final offer to a slightly greater extent than do they support the Employer final offer.

It therefore follows on the basis of the above facts and discussion thereon, that the undersigned issues the following decision and

AWARD

The agreement between the City of Racine Wastewater Commission and Local 2807, American Federation of State, County and Municipal Employees, AFL-CIO, shall include the final offer of the Union.


Robert G. Mueller
Arbitrator

Dated at Madison, Wisconsin
this 25th day of January, 1988.